

SENATE BILL 3397

By Herron

AN ACT to amend Tennessee Code Annotated, Title 63,  
relative to pharmaceutical marketing.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 63-10-204, is amended by inserting the following as a new, appropriately designated subsection thereto:

( ) "Manufacturer representative" means a person who acts in an educational or marketing role on behalf of a manufacturer regarding prescription drugs or devices produced or sold by the manufacturer. "Manufacturer representative" does not include a lobbyist for a manufacturer.

SECTION 2. Tennessee Code Annotated, Section 63-10-209, is amended by deleting the phrase "manufacturer's representatives" from subsection (a) and by substituting instead the phrase "manufacturer representatives" and is further amended by deleting the phrase "Manufacturers or their agents" from subsection (b) and by substituting instead the phrase "Manufacturers or their agents, including manufacturer representatives,".

SECTION 3. Tennessee Code Annotated, Title 63, Chapter 10, Part 2, is amended by inserting the following as a new, appropriately designated section thereto:

(a) A manufacturer representative shall not offer or provide to any pharmacist, prescriber, health benefit plan administrator, hospital, clinic or health care facility, health insurer, or any other person or organization doing business in this state that employs or contracts with a prescriber, any gift not otherwise exempt under this section.

(b) The following gifts are exempt from the prohibition of this section:

(1) Free samples of prescription drugs or devices intended for distribution to patients;

(2) The payment of reasonable compensation and reimbursement of expenses in connection with bona fide clinical trials;

(3) Any gift, fee, payment, subsidy, or other economic benefit provided to any one (1) person the value of which is less than ten dollars (\$10.00), provided that the aggregate value of all such gifts to one (1) person during any one (1) calendar year shall not exceed twenty-five dollars (\$25.00). As used in this subsection, one person includes one organization, health care facility, group practice, or any other association that falls within the definition of person found at §1-3-105; and

(4) A scholarship or other support for medical students, residents, or fellows to attend a significant educational, scientific, or policymaking conference of a national, regional, or specialty medical or other professional association if the recipient of the scholarship or other support is selected by the association.

(c) Any knowing violation of this section shall be punishable by a civil penalty of not more than one thousand dollars (\$1,000), recoverable by the state for each violation, in addition to any other appropriate sanction, including injunctive relief, costs, and attorney's fees. The attorney general and reporter may bring any appropriate action or proceeding in any court of competent jurisdiction in order to enforce the requirements of this section.

SECTION 4. This act shall take effect July 1, 2006, the public welfare requiring it.